In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.W.P.No. 14706 of 2005
Decided on: Oct 16,2006

Jaswant Travels Reged --Petitioner

vs.

The State Transport Appellate Tribunal,Punjab
and others --Respondents

Coram: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Pritam Pal

Present: Mr.L.R.Sharma,Advocate, for the petitioner

Mr.P.S.Chhina,Addl.A.G.Punjab.

Jasbir Singh,J:(Oral)

Petitioner, a partnership firm, has filed this writ petition, with a prayer to quash the order Annexure P-3 dated April 16,1999, vide which its application for grant of 'Stage Carriage Permit' on Bathinda to Mour via Jiwan Singh Wala route, was rejected. Further, prayer is to quash the order Annexure P-5, passed by the State Transport Appellate Tribunal,dated August 20,2002.

It is not in dispute that vide notice Annexure P-2, applications were invited for grant of one 'Stage Carriage Permit', with three return trips on Bathinda-Mour via Jiwan Singh Wala route. Petitioner was one of the applicants. The State Transport Commissioner took up those applications and did not grant permit to any of the applicants

vide order Annexure P-3, while observing thus:-

"Since after 1993, enormous trips have been increased on number of permits, various routes have been extended and even new permits have been granted either on the route or on the portion of the route in respect of District bus and mini bus as a result of which economic viability of the route has been diluted. Economic viability is the main factor which spurs the permit holder to continue the operation. I am of the considered opinion that it is not expedient to consider the applications on the route which has lost its credibility in sphere of economic viability, particularly when in the wake of non utility of the route, the State Transport Undertaking had surrendered it".

Order Annexure P-3, passed by the State Transport Commissioner,was affirmed, by the State Transport Appellate Tribunal, vide order Annexure P-5.

It is apparent from the record that application was declined on the ground that between the year 1993, till decision of the application in the year 1999, many permits have been granted on the route in question. With a view to ascertain that fact, following order was passed by this Court on September 11,2006:-

"Counsel for the respondents is directed to file an affidavit that during the period between 1993 to 1999, how many route permits were granted on Bathina- Mour via Jiwan Singh Wala. In the affidavit, it be also stated that whether any trip was increased on already existing permit on the said route. Affidavit be filed on or before the next date of hearing".

In reply thereto, an affidavit of Sh. Sanjay Popli, PCS, Secretary, Regional Transport Authority, Ferozepur, has been filed, wherein it has been stated that on the route in question, only one company, namely Sethi Transport Company,Bathinda, is operating. Mr. Chhina, on getting instructions from Piara Singh, Senior Assistant,in the office of Secretary, Regional Transport Authority, Ferozepur, further states that route permit was granted to the said company in the year 1988. Averments made in the affidavit and the information supplied to this Court at the time of hearing, clearly demonstrate that the State Transport Commissioner, has rejected application of the petitioner on a very flimsy ground. In fact, between the period when applications were invited and final decisiosn was taken on those applications on April 16,1999, no new route permit was granted in favour of any other applicant. The order passed by the State Transport Commissioner was upheld by State Transport Appellate Tribunal, without application of mind and even without getting any information from the State Authority.

In view of the above, we feel that orders Annexures P-3 and P-5, deserve to be set aside. Accordingly, these orders are quashed and matter is remitted to the State Transport Commissioner, Punjab, to decide application of the petitioner afresh. In view of law laid down by a Division Bench of this Court in Majhi Motors (Regd),Patiala v. State Transport Appellate Tribunal,Punjab and others, Civil Writ Petition No. 3613 of 2005 decided on July 13,2006, petitioner alone, is entitled for considertion.

The petitioner is directed to appear before the State Transport Commissioner,Punjab, on November 15,2006, who shall pass an

order, granting 'Stage Carriage Permit' to the petitioner or otherwise, forthwith, as per law.

Writ petition stands disposed of.

(Jasbir Singh)
Judge

Oct 16,2006
RR

(Pritam Pal)
Judge